

Appln No. 10/758,915
Amdt date December 19, 2005
Reply to Office action of September 26, 2005

REMARKS/ARGUMENTS

Claims 1-24 are currently pending in the application.
Claims 25-34 are canceled (without prejudice) by this Amendment.

Reconsideration is respectfully requested.

Applicant respectfully acknowledges the allowance of claims 13-15.

I. Rejections under 35 U.S.C. §103(a)

(1) On page 2 of the Office Action, the Examiner withdrew his rejection of claims 1-10 under 35 U.S.C. §103(a) as a result of applicants amendment to those claims but maintained his §103(a) rejection of claims 25-32 as being unpatentable over U.S. Patent No. 6,116,900 (Ostler) (primary reference) in view of U.S. Patent No. 5,858,332 (Jensen et al.) (secondary reference).

(2) On page 3 of the Office Action, the Examiner withdrew his rejection of claims 11 and 12 under 35 U.S.C. §103(a) but maintained his §103(a) rejection of claim 33 and 34.

As is set forth in the listing of claims, Applicant has canceled claims 25-34 without prejudice.

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II. Provisional Obviousness-Type Double Patenting

Rejection

Claims 1-12 and 16-24 were provisionally rejected under the Judicially Created Doctrine of Obviousness-Type Double Patenting as being unpatentable over claims 1-12 and 17-26 of copending application number 10/045,184. The Examiner indicated that... "Although the conflicting claims are not identical, they are not patentably distinct from each other because, as now amended, the instant and conflicting claims are drawn to substantially the same subject matter, differing only by specific language used and/or via overlap in scope by generic/subgeneric relationship. (Regarding the instant method claims (25-34) it is indicated that it would have been obvious in a self-evident manner to have used the conflicting bleaching compositions in methods for bleaching teeth.)"

Claims 25-34 are canceled by this amendment.

Enclosed is a terminal disclaimer to obviate the double patenting rejection whereby Discus Dental Inc. disclaims any terminal part of any patent granted on application serial number 10/758,915 which would extend beyond the expiration date of any

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patent which may issue on application serial number 10/045,184 filed October 18, 2001.

In view of the foregoing, Applicant respectfully solicits allowance of the claims 1-12 and 16-24 in addition to previously allowed claims 13-15.

Respectfully submitted,

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WPC/kmg
Enclosure: Terminal Disclaimer
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